

Judge Franklin D. Burgess

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	NO. CR04-5516FDB
)	
v.)	FINAL ORDER OF
)	FORFEITURE, 540 THIRD
MICHAEL STEFFEN,)	AVENUE, FOX ISLAND,
)	WASHINGTON
Defendant.)	
_____)	

This matter is before the Court pursuant to Rule 32.2(c), Federal Rules of Criminal Procedure for entry of a Final Order of Forfeiture following the conclusion of ancillary proceedings as to real property located at 540 Third Avenue, Fox Island, Washington, more particularly described below.

On September 6, 2005, the Court entered a Second Amended Preliminary Order of Forfeiture in the above-captioned case forfeiting certain properties to the United States, including defendant Michael Steffen's interest in the following property:

Real property, together with its buildings, appurtenances, fixtures,
 attachments and easements, located at 540 3rd Avenue, Fox Island, Washington, more
 particularly described as follows:

PARCEL A: Beginning at the Northwest corner of Lot 4, Section 35,
 Township 21 North, Range 1 East of the W.M., in Pierce County,
 Washington; thence South along the West line of said Lot 4 to intersection
 with meander line of said lot; thence North 31°10' West along the meander
 line, 182 feet to the true point of beginning; thence continue North 31°10'
 West along the meander line, 65.66 feet; thence East 128.17 feet to the
 West line of said Lot 4; thence North along the West line of said lot to a
 point 513.42 feet South of said Northwest corner of Lot 4; thence East to
 the Westerly line of Dreazy County Road; thence Southeasterly along said
 Westerly line to a point North 70°30' East of the true point of beginning;
 thence South 70°30' West to the true point of beginning.

PARCEL B: Beginning at a point 513.42 feet South of the Northeast corner
 of Government Lot 4, Section 34, Township 21 North, Range 1 East of the
 W.M., in Pierce County, Washington, on Fox Island; thence South and
 parallel to the East line of said Section 34, 85.57 feet; thence West at right
 angle to said East line, 128.17 feet to the meander line of Carr's Inlet;
 thence Northwesterly along said meander line, 100 feet; thence East 179.92
 feet to the point of beginning.

TOGETHER WITH an undivided one-eighth interest in the following
 described property:

Beginning at a point 20 feet West and 33.11 feet North of the Northeast corner of
 Government Lot 4 in said Section 34; thence West 150 feet; thence South parallel
 to the East line of said Section 34, 100 feet; thence East parallel to the North line
 of said Lot 4, 150 feet; thence North 100 feet to the point of beginning.

Situate in the County of Pierce, State of Washington
 Tax Parcel No. 0121353006 ("Fox Island property").

Pursuant to the Preliminary Order the United States Marshals Service has seized
 the Fox Island property and has maintained it in its custody pending further order of this
 Court.

1 The Fox Island property is subject to forfeiture pursuant to Title 21, United
2 States Code, Section 853, because it was used, or intended to be used by defendant
3 Michael Steffen to commit or to facilitate the commission of a violation of Title 21,
4 United States Code, Sections 841(a)(1), 841(b)(1)(B), and 846 and constitutes, or is
5 derived from, proceeds the defendant obtained, directly or indirectly, as the result of said
6 offense.
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9 On March 16, 23, and 30 notice of the Preliminary Order of Forfeiture and of the
10 United States' intent to dispose of the Fox Island property in accordance with law was
11 published in the Daily Journal of Commerce and in the Tacoma News Tribune. The
12 notices advised any person, other than the defendant, having or claiming a legal interest
13 in the Fox Island property, to file a petition with the Court within thirty (30) days of the
14 final publication of notice or of receipt of actual notice, whichever was earlier, setting
15 forth the nature and extent of the petitioner's right, title or interest in the forfeited
16 property any additional facts supporting the claim, and the nature of the relief sought.
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18 The United States also, to the extent possible, provided direct written notice as a
19 substitute for the published notice to any person known to have alleged an interest in the
20 Fox Island property. Among the persons so notified were Kimo R. and Anne L. Streeter,
21 a married couple, of 267 Shorewood Court, Fox Island, WA, 98333. The Streeters
22 received notice via certified mail on March 18, 2005, personally signed for by Anne L.
23 Streeter. More than thirty (30) days have passed since then, and no petition asserting an
24 interest in the Fox Island property has been filed by, or on behalf of, the Streeters. On
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1 August 12, 2005 the Clerk entered a default pursuant to Rule 55(a), Federal Rules of
2 Civil Procedure, against Kimo R. and Anne L. Streeter and all unknown persons who
3 have failed to file a petition asserting an interest in the Fox Island property.
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5 On April 1, 2005, a petition asserting a lien interest in the Fox Island property was
6 submitted on behalf of Kitsap Bank, Mortgage Electronic Registration Systems, Inc., and
7 Countrywide Home Loans, hereinafter, "Countrywide."
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9 On April 19, 2005, Susanne M. White filed a petition claiming an interest in "real
10 property owned by Michael Steffen," potentially asserting a claim against the Fox Island
11 property.
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13 On April 29, 2005, William and Beverly Steffen submitted a petition claiming an
14 interest in the Fox Island property.
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16 No other claims or petitions have been submitted with respect to the Fox Island
17 property, and the time permitted for doing so has expired.
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19 On June 16, 2005, the Court entered an Order dismissing the petition and claim of
20 Susanne M. White.
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22 Plaintiff, United States of America, Petitioner Countrywide Home Loans, and
23 Petitioners William and Beverly Steffen, through their respective counsel, have entered
24 into a Stipulation for Compromise and Settlement of Claims (Settlement Agreement)
25 which was filed with the Court on September 22, 2005. The Court hereby approves the
26 parties' Settlement Agreement and enters this Final Order of Forfeiture in accordance
27 with its terms. Accordingly, it is hereby ORDERED:
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- 1 1. The Fox Island property is hereby fully and finally forfeited to the United
2 States, and the United States shall have clear title thereto, subject to the
3 interest of Countrywide, as specifically defined below.
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- 5 2. Countrywide shall retain an lien interest in the Fox Island property in the
6 amount of \$491,282.01.73 representing the principal and interest due as of
7 April 30, 2005, under the promissory note of Michael Steffen, plus a per
8 diem amount of \$76.11 per day thereafter.
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- 10 3. The United States shall not sell the Fox Island property for less than the lien
11 interest of Countrywide as set forth in paragraph 2 above. If the United
12 States is unable to obtain a buyer of the property and does not accept an
13 offer to purchase the property before October 1, 2006, for an amount
14 greater than the amount stated in paragraph 2 above plus all state and local
15 property taxes due as of the date of this Final Order of Forfeiture, the
16 United States shall thereafter transfer its interest in the Fox Island property
17 to Countrywide, in full satisfaction of Countrywide's lien interest. If any
18 offer to purchase the property is accepted by the United States after
19 September 15, 2006, the closing of the transaction and the transfer of the
20 property to the purchaser must occur within 45 days of the offer's
21 acceptance, provided that the interest of Countrywide as defined in
22 paragraph 2 above is satisfied and real estate taxes due as of the date of this
23 Order are paid at the closing of the transaction. Any further extension of
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1 closing beyond said 45 days must be approved by Countrywide.

- 2 4. In the event the United States is able to sell the Fox Island property for
3 more than the lien interest of Countrywide as set forth in paragraph 2
4 above, plus real estate taxes due as of the date of this Order, then, after
5 deduction of the expenses of sale, and of marketing, maintenance,
6 safeguarding and improvement of the property pending sale, any remaining
7 amount, up to \$30,000 shall be divided evenly between the United States on
8 the one hand and petitioners William and Beverly Steffen, on the other
9 hand. Any amounts due to the United States under this paragraph shall be
10 deposited into the Assets Forfeiture Fund of the Department of Justice.
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12 5. Upon payment of Countrywide's principal and interest due as set forth in
13 paragraph 2, above, Countrywide shall promptly cause a full reconveyance
14 of its deed of trust pertaining to the Fox Island property to be filed in the
15 land title records of Pierce County, Washington.
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17 6. Any net amount exceeding \$30,000, remaining after satisfaction of
18 Countrywide's lien interest, payment of taxes due, and the payments set
19 forth in paragraph 4 above, shall be property of the United States and
20 deposited into the Assets Forfeiture Fund of the Department of Justice.
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22 7. Except as provided in paragraph 4 above with respect to costs of the United
23 States Marshals Service, each party is to bear its own costs and attorney's
24 fees.
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- 1 8. This Final Order of Forfeiture, finally disposes of all claims to the Fox
2 Island property and of any causes of action arising out of identification of
3 the Fox Island property as being subject to criminal forfeiture in this case.
4 The parties shall execute such further documents, to the extent necessary, to
5 implement the terms of this Order.
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7 9. The Clerk of the Court is directed to mail a copy of this Final Order of
8 Forfeiture to the attorneys for each party of record, to deliver a copy to the
9 United States Marshals Service, and to send three additional, certified
10 copies to the United States Marshals Service, Seattle, Washington.
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12 DATED this 3rd day of November, 2005.

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14 
15 FRANKLIN D. BURGESS
16 UNITED STATES DISTRICT JUDGE
17

18 Presented by:

19 /s/ Peter O. Mueller
20 PETER O. MUELLER
21 Assistant United States Attorney

22 /s/ Robert W. Sargeant
23 ROBERT W. SARGEANT
24 Attorney for Petitioner
25 Countrywide Home Loans

26 /s/ Zenon Peter Olbertz
27 ZENON PETER OLBERTZ
28 Attorney for William and Beverly
 Steffen

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FINAL ORDER OF FORFEITURE, 540 THIRD AVENUE,
FOX ISLAND, WASHINGTON - 8
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